

CWP-8617-2011

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

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Date of Decision:14.08.2015

Murti Thakur Ji others

... Petitioner(s)

Versus

State of Punjab and others

... Respondent(s)

CORAM: HON'BLE MR. JUSTICE PARAMJEET SINGH

- 1) Whether Reporters of the local papers may be allowed to see the judgment ?.
- 2) To be referred to the Reporters or not ?.
- 3) Whether the judgment should be reported in the Digest ?

Present: Mr. Ashok Bhardwaj, Advocate,
for the petitioners.

Mr. Amit Chaudhary, Addl. A. G. Punjab.

Mr. M.S.Khaira, Sr. Advocate with
Mr. R.S.Khaira, Advocate for
respondent Nos.3 to 205.

Paramjeet Singh, J. (Oral)

Instant writ petition has been filed under Articles 226/227 of the Constitution of India for issuance of a writ in the nature of certiorari for quashing the order dated 25.11.2010 (Annexure P-3) passed by respondent No.2-Divisional Commissioner, Patiala Division, Patiala whereby appeals filed by the private respondents have been disposed of with the following observations:

“3. *I have heard the counsel for the appellants*

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and have also perused the record of the lower court. During arguments, the counsel for the appellants has produced a copy of the orders dated 27.09.2010 passed by Additional District Judge, Sangrur vide which the SDM i.e. receiver appointed in this case has been discharged and he has handed over the charge to Mahant Ved Bhagwan Dass who is present in this court. The counsel has pleaded that once the receiver has been discharged by the Hon'ble civil court he has no right to pursue with the present appeals and in case the Mahant Ved Bhagwan Dass desires then he can file separate suit under the appropriate Act. I am in agreement with the pleadings of the counsel for the appellants and as such all the 85 appeals filed in this case are hereby accepted and the case is remanded back to District Collector, Sangrur with the directions that if Mahant Ved Bhagwan Dass file fresh applications for rendition of accounts and ejectment against the present appellants, then afresh speaking order be passed after hearing both the parties and giving them sufficient opportunity to adduce evidence in support of their respective claims”.

I have heard learned counsel for the parties and perused the case file.

Learned counsel for the petitioners vehemently contended that earlier civil court had appointed Sh. Naveen Markan, Advocate as receiver to pursue the remedies on behalf of Murti Thakur Ji, Thakur Dwara, village Kheri Naga, Tehsil Sunam. After conclusion of the proceedings of civil court, Mohatmim/Mahant of the Dera has been

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entrusted with the works to be performed on behalf of the Dera. Since the Divisional Commissioner, Patiala Division, Patiala has allowed the appeals only on the ground that earlier proceedings were filed by Murti Thakur Ji through receiver and now new person has come in place of the receiver, therefore, Mohtamim should file new proceedings.

Per contra, learned State counsel and learned senior counsel for private respondents vehemently oppose the contentions of learned counsel for the petitioners and contend that the disputed property has not been declared as religious charitable property, therefore, it is not exempted from the provisions of Punjab Land Reforms Act and the receiver has no right to change the ownership of the land.

I have considered the rival contentions of learned counsel for the parties.

So far as the contention of learned senior counsel for the private respondents that disputed property is not covered under the Punjab Land Reforms Act and it is not a charitable trust, the same issues cannot be decided in the present petition. These are altogether independent proceedings. So far as the change of ownership is concerned, this is also to be seen by the competent authority. The only grievance of the petitioners before this Court is that appeals pending before respondent No.2-Divisional Commissioner, Patiala should continue by replacing the receiver by Mohtamim appointed by the Civil Court. Now the receiver has been discharged and Mahant Ved Bhagwan

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Dass has to discharge the duty on behalf of the Dera. With the replacement of receiver by Mohtamim/Mahant, the main appellants/petitioners will remain the same and only the person(s) through whom the appeals were filed, have to be changed. Otherwise also, it is settled law that once the proceedings have started, mere change of management will not affect the rights which vest in the petitioners herein. In these circumstances, the impugned order dated 25.11.2010 (Annexure P-3) is not sustainable in the eyes of law and accordingly the same is set aside. The matter is remanded to respondent No.2-Divisional Commissioner, Patiala Division, Patiala with a direction to decide the appeals afresh in accordance with law on merit and not on mere technicalities. The respondents herein will be at liberty to raise all the objections as available to them in accordance with law. Parties through their counsel are directed to appear before the Commissioner, Patiala Division, Patiala on 19.10.2015.

Disposed of.

14.08.2015
parveen kumar

(Paramjeet Singh)
Judge